Member complained that no fixed allowance was payable by the parties to the commissioners and suggested that a system of granting first class batta and mileage to commissioners might be introduced with advantage. At present, unregistered documents were being filed in courts, but no employe in the court appeared to be responsible for the safe custody of those documents. The Member suggested that those documents might be returned at once to the parties concerned with the signature and seal of the head clerk of the court after an attested copy of the same had been taken and filed with the records of the case. The practice of insisting on the production, in *thirippu* cases, of the *chitta* along with the plaint should be put a stop to, as all the courts had been supplied with settlement registers. Similarly, Jenmies should not be asked to produce encumbrance certificates in cases in which Jenmom lands had to be sold, for the valuation of their dues, as it was expressly laid down in the Jenmi and Kudiyan Regulation that the right of a Jenmi had precedence over everything else. As final hearing was an important item in the progress of a suit, the Member requested that full and complete hearing notes might be ordered to be taken by the Munsiffs both for reference at the time of writing the judgment and for the information of the appellate court. The Member also prayed that the hearing notes might be made to form part of the records of the case and copies of the same made available to the parties on their application. The minimum of 40 contested suits required by the High Court to be decided by a Munsiff in a month led to cases being disposed of hastily and to a large number of suits being remanded, by the District Courts to the lower Courts. The Member suggested that the evil might be checked by due notice being taken by the appellate court of shabby disposals by the lower courts. In the disposal of small cause suits, the Munsiff's decisions being practically final, it was desirable that High Court should exercise a sort of calender revision as in the case of the, judgments in criminal cases. The next suggestion of the Member was that the civil courts might be asked to fix a day for the delivery of judgments, so that the parties might have due notice thereof. The Courts should also be asked not to delay the pronouncement of judgments indefinitely as at present. As regards the preparation of decrees, the Member proposed that a second clerk might be detailed to examine the decrees drawn up by the clerk entrusted with that work and wanted that severe notice should be taken of all mistakes and omissions which were not found to be accidental. Delays in the drawing up of decrees should also be avoided. In the opinion of the Member it was desirable that the pay of the decree clerk should be so revised as to place him above temptation. The delay in the grant of copies of records and the unsatisfactory nature of the work of process-servers were other matters which required looking into. To enhance the value of encumbrance certificates now obtained from the registration offices it was necessary that they should be issued with the authority of the Government which was not the case now ; and with a view to achieve that object, there should be a certificate clerk in each Sub-Registry office. The Member then referred to the frequent practice of amins returning the orders of Munsiffs for delivery of possession unexecuted on trivial grounds in collusion with the defendants and strongly urged the formulation of certain well-defined rules in regard to the execuion of decrees by amins. He then said that the present practice of decreeing proportionate costs should be altered and costs should be awarded to the plaintiff after deducting only the court fees in proportion to the failure of the plaint. The decree amount, court fee, etc., due to parties from courts should be paid to Vakils only when the receipts presented by them were signed by the parties also. Speaking of the work of the Panchayat Courts, the Member represented that at least one judge in each of such courts should be present every day for superintending the work of the clerk of the court and checking the entries made by him. In conclusion, the Member criticised the prevailing practice of bench clerks taking down the depositions of witnesses in their own hand and advocted their being taken down by the Munsiffs themselves.

41. Some suggestions regarding the administration of civil justice.

Mr. Krishna Aiyar Narayana Aiyar (Member, Ambalapuzha Taluk) brought to notice certain defects in the administration of civil justice. He said that at present process peons invariably returned processes with false statements ; and the courts

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acting upon those processes proceeded to pass judgment. In spite of the High Court circular insisting upon the minimum personal service of 75 per cent. of processes by process peons, the evil still remained. With a view to remedy that evil, the Member suggested that courts might be asked to accept only such returns as were attested by both the party and the Vakil. He added that such of the peons as could show a record of more than 75 per cent. of personal service should be encouraged, while those who could not claim at least 50 per cent. of such service to their credit should be departmentally punished. In the case of warrants entrusted to peons for the execution of money decrees also, the Member said that the same stringent rules should be enforced. Warrants to the amount of Rs. 500 and above should not, as a rule, be entrusted to peons but only to amins. The Member referred to an address of Mr. S. Krishna Aiyar, Member, Legislative Council, to the students of the Trivandrum Law College in the course of which he had stated that the service of processes might well be entrusted to Vakils. To admit of fudging process-servers being adequately dealt with the Member suggested that civil courts might be invested with powers to enquire into and punish offenders criminally in matters arising before them.

Section 54 of the Civil Procedure Code laid down that a concise statement of the claims set forth in the plaint should be filed by the plaintiff to be served along with the summons. If, instead of that, duly attested copies of the plaint itself were filed and served along with the summons in sufficient time to enable the defendant to contest the suit, the lengthy adjournments prayed for and granted could be avoided and the suit could proceed from the date of first hearing. The costs incurred by the party for the preparation of such records both on the original and on the execution sides might be included in the schedule of costs recoverable under the decree. The Member stated that the system referred to above was in force in British India and Cochin. As regards the settlement of issues, the Member suggested that, if issues could be framed on the day when the written statement was filed or immediately thereafter, and if the case could then be adjourned for six months or even one year, much public time and money could be saved and the pendency of suits in general could be appreciably reduced. The Member also suggested that in the appointment of commissioners the parties also might be consulted, as that would ensure a better mode of selection. The law regarding the setting aside of decrees *ex parte*, as it stood, was defective and Goverment would do well to move the legislature for an amendment of the provisions of the Civil Procedure Code with a view to remove the grievances of the litigant public on that account. Another defect in the administration of civil justice was that copies of records were being granted only to parties and not to other persons ; copies of important records such as title-deeds, etc., could be had by any one from the Sub-Registry office and there was no reason why that system should not be extended to the civil courts as well. Unused copying sheets were not being returned to the parties by the examiners, and with a view to prevent the evil, it would be well to entrust that work to the head clerk of the court itself. The acceptance of illegal gratification for attesting affidavits should be put down. The decrees drawn up were not in consonance with the judgments, owing to the carelessness of the clerks, and the costs of getting such incorrect decrees amended were now borne by the decree-holder. Such costs should be included as costs recoverable under the decree. Vakils' fees in small cause suits should be included in the table of costs. The disposal of execution applications by Judges and Munsiffs in chambers should be put a stop to. Again, all courts insisted upon copies of *chittas* and registration certificates being produced by the party seeking an attachment or a proclamation for the sale of immovable properties. The settlement register already supplied to the courts served the purpose and copies of *chittas* were really unnecessary. The production of registration certificates was also not necessary for the reason that the object with which it was required was not served fully. The sale was being conducted at the risk of the party applying therefor and the aggrieved party had his remedy under Section 308 of the Civil Procedure Code. An encumbrance certificate for a period of 12 years produced by the party might not disclose the changes in title undergone by the property, while it had also to be remembered

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the Sub-Registry office from which such a certificate was obtained undertook no responsibility as to its correctness. Any proceedings for sale, etc., might well be taken on the affidavit of the party concerned. The Member also touched upon the insufficient supply of court fee stamps held for sale by stamp vendors. Stamps of all denominations, and especially of the higher denominations, were usually not available for sale with vendors. Government had already issued orders insisting upon vendors having a good supply of court fee stamps; but as the orders of the Government were not being enforced, the Member suggested the appointment of official stamp vendors to each of the courts to remove the difficulties of the litigant public, in which case the Government could also save a large sum of money now spent by way of commission. The present system of inspection of subordinate courts by one of the High Court Judges during vacation time was unsatisfactory. A High Court Judge putting up in a Satrom or a Traveller's Bungalow deputed his clerk for such inspection. The inspection should be made during the working season and a permanent judge and his establishment should be touring about for the purpose. If that was not practicable, the power of inspection should be delegated to the respective District Courts.

Finally, the Member represented that the administration of civil and criminal justice through the Panchayat Courts also stood in need of radical change. Men who had no legal knowledge or training were generally appointed as judges with the result that the administration of justice suffered. Men with better qualification should be secured for the work, and if that was not feasible, the institutions might as well be abolished. The men who were responsible for their selection at present were the Proverthicars and not higher officers.

The Assembly adjourned at 5·15 P. M.

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